

NAVIGATION.

No. 96 of 1961.

An Act to amend the *Navigation Act* 1912-1958, and
for other purposes.

[Assented to 30th October, 1961.]

BE it enacted by the Queen's Most Excellent Majesty, the
Senate, and the House of Representatives of the
Commonwealth of Australia, as follows:—

- 1.—(1) This Act may be cited as the *Navigation Act* 1961.
(2.) The *Navigation Act* 1912-1958* is in this Act referred
to as the Principal Act.

Short title
and citation.

* Act No. 4, 1913, as amended by No. 32, 1919; No. 1, 1921; No. 8, 1925; No. 8, 1926; No. 49, 1934; No. 30, 1935; No. 1, 1943; No. 80, 1950; No. 109, 1952; No. 96, 1953; No. 46, 1956; and No. 36, 1958.

(3.) The Principal Act, as amended by this Act, may be cited as the *Navigation Act 1912–1961*.

Commence-
ment.

2.—(1.) Sections one, two and thirty-six of this Act shall come into operation on the day on which this Act receives the Royal Assent and the other sections of this Act shall come into operation on such dates as are respectively fixed by Proclamation.

(2.) Each section inserted in the Principal Act by a section of this Act shall come into operation on the date on which the last-mentioned section comes into operation.

3. Section three of the Principal Act is repealed and the following section inserted in its stead:—

Act does not
apply to naval
ships, &c.

“ 3. Except where the contrary intention appears, this Act does not apply to or in relation to a vessel belonging to the naval, military or air forces of the Commonwealth or of any other country, including a foreign country.”.

Parts.

4. Section five of the Principal Act is amended—

(a) by omitting the words—

“Division 11.—Lights, Signals, and Sailing Regulations (Sections 258–265A).”

and inserting in their stead the words—

“ Division 11.—Collisions, Loss and Damage (Sections 258–265A).”; and

(b) by omitting the words—

“ Part IX.—Courts of Marine Inquiry (Sections 356–377A).”

and inserting in their stead the words—

“ Part IX.—Courts of Marine Inquiry (Sections 355A–377A).”.

Interpretation.

5. Section six of the Principal Act is amended—

(a) by omitting paragraphs (d) and (e) of the definition of “ diplomatic or consular representative of Australia ” in sub-section (1.) and inserting in their stead the following paragraphs:—

“ (d) chargé d'affaires;

“ (e) counsellor, secretary or attaché of an embassy, legation or other post; and

“ (f) consul; ”; and

(b) by omitting from the definition of “ Government ship ” in sub-section (1.) the words “ a ship which belongs to the Commonwealth Naval Forces ” and inserting in their stead the words “ a ship that belongs to the naval, military or air forces of the Commonwealth ”.

6. Section six c of the Principal Act is amended by omitting from paragraph (b) the words “ want of skill,”.
- Incompetency
and misconduct
of officers.
7. Section forty-three of the Principal Act is amended—
- Crews for ships,
not including
officers.
- (a) by omitting from sub-section (8.) the words “ four-fifths of the engine-room staff, or less than four-fifths of the deck complement, of the ship ” and inserting in their stead the words “ the minimum engine-room complement, or with less than the minimum deck complement, of the ship ”;
- (b) by omitting paragraph (a) of sub-section (10.) and inserting in its stead the following paragraph:—
- “ (a) that the ship went to sea with not less than the minimum engine-room complement, and with not less than the minimum deck complement, of the ship;”;
- (c) by omitting sub-section (12.) and inserting in its stead the following sub-section:—
- “ (12.) In this section—
- ‘ the minimum deck complement ’, in relation to a ship, means the persons required by virtue of sub-section (1.) of this section to be carried on the ship as able seamen, ordinary seamen, boys or apprentices less—
- (a) if the number of those persons is less than ten—one of those persons; or
- (b) in any other case—not more than one-fifth of those persons;
- ‘ the minimum engine-room complement ’, in relation to a ship, means the persons required by virtue of sub-section (1.) of this section to be carried on the ship for employment in the engine-room, stoke-hold, bunkers or boiler-rooms of the ship less—
- (a) if the number of those persons is less than ten—one of those persons; or
- (b) in any other case—not more than one-fifth of those persons.”.
8. Section seventy-five A of the Principal Act is amended by inserting in sub-section (2.), after the word “ month,” (first occurring), the words “ being wages payable at a rate per month,”.
- Computation
of wages.

9. Section ninety of the Principal Act is repealed.

Wages not to be
attached, &c.

10. Section one hundred and five of the Principal Act is repealed and the following section inserted in its stead:—

Deserting
seaman may be
ordered on
board his ship.

“ 105.—(1.) Where a seaman or apprentice has been found guilty by a court of the offence of desertion, or the offence of absence from his ship without leave or reasonable cause, being absence not amounting to desertion or not treated as such by the master, the court may, if the master, owner or agent of the ship so requires and the court thinks it advisable to do so, cause the seaman or apprentice to be conveyed on board his ship for the purpose of proceeding on the voyage.

“ (2.) Where, in pursuance of the last preceding sub-section, a court causes an apprentice or seaman to be conveyed on board his ship, the court shall not impose any penalty on the seaman or apprentice except in accordance with the next succeeding sub-section.

“ (3.) Where the seaman or apprentice has been convicted of the offence of desertion and the court is satisfied that the master or owner of the ship has properly incurred expenses by reason of the offence, the court may direct the forfeiture of accrued wages of the seaman or apprentice not exceeding Forty pounds or the amount of those expenses, whichever is the less, and, where the court so directs, the court shall also direct, in pursuance of section three hundred and ninety-eight of this Act, that the whole of the forfeiture shall be paid to the master or owner of the ship.”.

Crew Accom-
modation
Committee.

11. Section one hundred and thirty-eight of the Principal Act is amended—

(a) by inserting after sub-section (4.) the following sub-sections:—

“ (4A.) The Minister may appoint a person to be the deputy of the Chairman or of any other member of the Committee.

“ (4B.) The deputy of the Chairman is, in the event of the absence of the Chairman from a meeting of the Committee, entitled to attend the meeting and, when so attending, shall be deemed to be the Chairman of the Committee.

“ (4C.) The deputy of a member other than the Chairman is, in the event of the absence of the member of whom he is the deputy from a meeting of the Committee, entitled to attend the meeting and, when so attending, shall be deemed to be a member of the Committee.”; and

(b) by inserting in sub-section (8.), after the word “ members ”, the words “ , and deputies of members ”.

12. Section one hundred and forty-eight D of the Principal Act is amended by omitting sub-section (3.) and inserting in its stead the following sub-section:—

Wages and effects to be held in trust by Minister.

“(3.) The Minister may apply the whole or any part of an amount of wages of a seaman or apprentice held by the Minister under this section—

(a) where a court has ordered a forfeiture of wages of the seaman or apprentice and the liability in respect of the forfeiture has not been otherwise discharged—

(i) in complying with a direction given by a court under section three hundred and ninety-eight of this Act in respect of the forfeiture; and

(ii) subject to complying with any such direction—in paying to the Consolidated Revenue Fund an amount not exceeding the amount of the forfeiture; or

(b) where a court has imposed a pecuniary penalty on the seaman or apprentice and the liability in respect of the penalty has not been otherwise discharged—in paying to the Consolidated Revenue Fund an amount not exceeding the amount of the penalty.”.

13. Section one hundred and fifty-seven of the Principal Act is amended by omitting from sub-section (1.) the words “the above-mentioned residue” and inserting in their stead the words “the residue referred to in the last preceding section”.

Wills of deceased seamen.

14.—(1.) Section one hundred and six of the *Navigation Act* 1958 is repealed.

Official log-book.

(2.) Section one hundred and seventy-one of the Principal Act is amended—

(a) by omitting sub-sections (1.), (2.) and (3.) and inserting in their stead the following sub-section:—

“(1.) The master of a ship, other than a river and bay ship, shall keep an official log-book in the prescribed form and shall make such entries in that log-book as are prescribed.

Penalty: Fifty pounds.”; and

(b) by omitting sub-section (6.) and inserting in its stead the following sub-section:—

“(6.) The regulations may make provision for or in relation to the signing of entries in the official log-book of a ship.”.

Alteration, &c.
of ships and
cancellation of
certificates.

15. Section one hundred and ninety A of the Principal Act is amended—

(a) by omitting from paragraph (b) of sub-section (2.) the word “or” (last occurring); and

(b) by inserting after paragraph (c) of sub-section (2.) the following word and paragraph:—

“; or (d) the owner of a ship has failed to comply with section one hundred and ninety-three of this Act in respect of the ship,”.

16. Section one hundred and ninety-three of the Principal Act is repealed and the following section inserted in its stead:—

Steamships to
be surveyed
periodically.

“193. Subject to this Part, the owner of a steamship shall, at least once during each period of twelve months, cause each part of the steamship that, under the regulations, is subject to survey to be surveyed.

Penalty: Two hundred and fifty pounds.”.

Surveyors’
reports and
declarations,
and certificates
of survey and
equipment.

17. Section one hundred and ninety-four of the Principal Act is amended by omitting from sub-section (4.) the words “on receipt of the report or reports of a surveyor or surveyors in respect of a ship” and inserting in their stead the words “after taking into account any report or reports furnished to him in respect of the ship by a surveyor or surveyors”.

18. Sections one hundred and ninety-five and one hundred and ninety-six of the Principal Act are repealed and the following sections inserted in their stead:—

Duration of
certificates.

“195.—(1.) Subject to this Act, a certificate of survey or a certificate of equipment remains in force for such period as is prescribed, or, where a period is specified in the certificate, for that period.

“(2.) The Minister may, if it appears proper and reasonable so to do and he is satisfied that no danger to the ship or her crew or her passengers or cargo will arise from so doing, extend a certificate of survey or a certificate of equipment for such period, not exceeding one month, as he thinks fit.

Certificates to
be exhibited.

“196. The master of a ship in respect of which a certificate of survey or a certificate of equipment has been issued shall, while the certificate remains in force, cause a copy of the certificate to be kept displayed in a prominent and accessible place in the ship, where it may be read by all persons on board.”.

Extension of
time for
re-survey.

19. Section two hundred and one of the Principal Act is repealed.

20. Section two hundred and nineteen B of the Principal Act is amended by omitting from sub-sections (3.) and (4.) the words “ Five hundred pounds ” and inserting in their stead the words “ One thousand pounds ”.

Submersion of load lines.

21. Section two hundred and twenty-nine of the Principal Act is amended by omitting sub-section (2.).

Signals of distress and urgency.

22. Section two hundred and thirty of the Principal Act is repealed and the following section inserted in its stead:—

“ 230.—(1.) If a person uses or sends a signal in contravention of the regulations made by virtue of the last preceding section, he shall, in addition to any penalty incurred under the regulations, be liable to pay compensation for any labour undertaken, risk incurred or loss sustained in consequence of the signal having been so used or sent.

Compensation for loss occasioned by improper use of signals.

“ (2.) Compensation under the last preceding sub-section may, without prejudice to any other remedy, be recovered in the same manner as salvage is recoverable under Part VII. of this Act.”

23. The heading to Division 11 of Part IV. of the Principal Act is repealed and the following heading inserted in its stead:—

Heading to Division 11 of Part IV.

“ DIVISION 11.—COLLISIONS, LOSS AND DAMAGE.”

24. Section two hundred and sixty-eight of the Principal Act is repealed and the following section inserted in its stead:—

“ 268. Where, during a voyage to a port in Australia or within the limits of Australia or the territorial waters of Australia, a ship—

Accidents, &c., to be reported.

- (a) has sustained or caused an accident occasioning loss of life or serious injury to a person;
- (b) has received damage that has rendered, or is likely to render, the ship unseaworthy or has affected, or is likely to affect, the efficient operation of the boilers or machinery of the ship;
- (c) has been in a position of great peril, either from the action of some other ship or from danger of wreck or collision;
- (d) has been stranded or wrecked; or
- (e) has fouled or done any damage to a pipeline or submarine cable or to a lighthouse, lightship, beacon, buoy or other marine mark, not being a lighthouse, lightship, beacon, buoy or marine mark to which section nineteen B of the *Lighthouses Act 1911–1957* applies,

or where a ship, having left a port in Australia, has put back to that port, the master of the ship shall, as soon as practicable, having regard to the means of communication available to him, report the happening to such person as is prescribed and shall, if so requested by or on behalf of that person, furnish a report in writing to that person in the prescribed form.

Penalty: One hundred pounds.”.

Regulations
as to passenger
trade.

25. Section two hundred and seventy of the Principal Act is amended by inserting after paragraph (e) the following paragraph:—

“(ea) hospital accommodation;”.

Hospital
accommoda-
tion

26.—(1.) Section one hundred and forty-three of the *Navigation Act* 1958 is repealed.

(2.) Section two hundred and seventy-one of the Principal Act is repealed.

27. Before section three hundred and fifty-six of the Principal Act the following section is inserted in Part IX. :—

Definition.

“ 355A. In this Part, ‘certificate’ or ‘certificate of competency’ means a certificate of competency granted under section fifteen of this Act, and includes a permit to serve granted under section eighteen A of this Act, a certificate of service granted under section eighteen B of this Act and a certificate referred to in section twenty-four of this Act.”.

Payment of
assessors.

28. Section three hundred and sixty-two of the Principal Act is amended by omitting the words “ who assists a Court of Marine Inquiry or a Supreme Court under this Part ”.

Witnesses.

29. Section three hundred and seventy of the Principal Act is amended by inserting in paragraph (b) of sub-section (1.), after the word “ member ”, the words “ or officer ”.

30.—(1.) Section three hundred and seventy-five B of the Principal Act is repealed and the following section inserted in its stead:—

Appeals against
cancellation or
suspension of
certificates.

“ 375B.—(1.) Where a Court of Marine Inquiry has cancelled or suspended the certificate of an officer, the officer may, subject to the next succeeding sub-section, appeal against the cancellation or suspension to the Commonwealth Industrial Court.

“(2.) An appeal under this section shall not be instituted later than one month after the date of the cancellation or suspension or, in a case where the inquiry out of which the cancellation

or suspension arose is reheard by a Court of Marine Inquiry under section three hundred and sixty-six of this Act, after the date of the decision of that Court.

“(3.) The Commonwealth Industrial Court has jurisdiction to hear and determine an appeal under this section and may confirm, revoke or vary a cancellation or suspension appealed from and may make such order as to costs as it thinks fit.

“(4.) An appeal under this section shall be by way of rehearing, but the Commonwealth Industrial Court may have regard to any evidence given before the Court of Marine Inquiry at the inquiry out of which the cancellation or suspension arose.

“(5.) The jurisdiction of the Commonwealth Industrial Court under this section shall be exercised by the Court constituted by not less than two Judges.

“(6.) On the hearing of an appeal under this section, the Commonwealth Industrial Court shall have the assistance of not less than two assessors appointed under section three hundred and sixty of this Act.”

(2.) The amendment made by the last preceding sub-section does not affect an appeal under section three hundred and seventy-five B of the Principal Act pending at the commencement of this section.

31. Section four hundred and nineteen of the Principal Act is repealed and the following section inserted in its stead:—

“419. For the purposes of this Act, the Minister shall have a seal, the design of which shall be approved by the Minister.” Seal.

32.—(1.) Section two hundred of the *Navigation Act 1958* is repealed.

(2.) Section four hundred and twenty of the Principal Act is repealed and the following section inserted in its stead:—

“420.—(1.) Where—

- (a) the holder of a certificate of competency has been convicted of an offence either in Australia or elsewhere; or
- (b) a court of marine inquiry or other tribunal established under the law of a State has cancelled or suspended a certificate of competency in so far as concerns its validity in that State,

Cancellation or
suspension of
certificates of
competency by
Minister.

the Minister may, in the case of a certificate other than a certificate referred to in section twenty-two of this Act, cancel or suspend the certificate or, in the case of a certificate referred to in that section, suspend the certificate in so far as concerns its validity in Australia.

“(2.) Where the Minister cancels or suspends a certificate under this section, the Minister may, by notice in writing served upon the holder of the certificate, require the holder of the certificate to deliver the certificate to the Minister or to such other person as is specified in the notice within such period as is so specified.

“(3.) A person upon whom a notice is served under the last preceding sub-section shall, unless it is impracticable for him so to do, comply with the notice.

Penalty: One hundred pounds.

“(4.) The suspension of a certificate under this section may be revoked by the Minister at any time.

“(5.) Where a certificate, not being a certificate referred to in section twenty-two of this Act, has been cancelled or suspended under this section, the Minister may, at any time, if he thinks the justice of the case requires it—

(a) in the case of a cancelled certificate—re-issue the certificate; or

(b) in any case—grant to the person to whom the certificate was granted a certificate of a lower grade.

“(6.) If, under this section, the Minister suspends, or revokes the suspension of, a certificate referred to in section twenty-two of this Act that was granted under the law of a Commonwealth country other than Australia, the Minister shall cause the Government of that country to be informed of the suspension and the reasons for suspension, or of the revocation of the suspension, as the case requires.

“(7.) In this section, unless the contrary intention appears, ‘certificate of competency’ means a certificate of competency granted under section fifteen of this Act, and includes a certificate of service granted under section eighteen B of this Act and a certificate referred to in section twenty-two or in section twenty-four of this Act.”.

33. After section four hundred and twenty of the Principal Act the following section is inserted:—

Power to
exempt
troopships.

“421.—(1.) The Minister may, by instrument in writing under his hand, direct that this Act, or such provisions of this Act as are specified in the instrument, shall not apply to or in relation to a troopship so specified.

“(2.) In this section, ‘troopship’ means a ship used for the transport of members of the naval, military or air forces of the Commonwealth or of any other country, including a foreign country.”.

34. Section four hundred and twenty-four of the Principal Act is amended—

Marine Council
and committees
of advice.

(a) by omitting sub-section (4.) and inserting in its stead the following sub-sections:—

“ (4.) The member of the Marine Council referred to in paragraph (a) of sub-section (2.) of this section shall be the Chairman of the Marine Council.

“ (4A.) The Minister may appoint a person to be the deputy of the Chairman or of any other member of the Marine Council.

“ (4B.) The deputy of the Chairman is, in the event of the absence of the Chairman from a meeting of the Marine Council, entitled to attend the meeting and, when so attending, shall be deemed to be Chairman of the Marine Council.

“ (4C.) The deputy of a member other than the Chairman is, in the event of the absence of the member of whom he is the deputy from a meeting of the Marine Council, entitled to attend the meeting and, when so attending, shall be deemed to be a member of the Marine Council.

“ (4D.) At a meeting of the Marine Council from which the Chairman and the deputy of the Chairman are absent, another member appointed by the members present at the meeting shall preside.”; and

(b) by adding at the end of paragraph (e) of sub-section (9.) the words “ and to deputies of members of the Marine Council ”.

35.—(1.) The Principal Act is amended as set out in the Schedule to this Act.

Additional
amendments.

(2.) Section twelve of the *Navigation Act* 1958 is amended—

(a) by omitting from paragraph (b) of sub-section (7.) of section fourteen set out in that section the words “ a Deputy Director, or a proper authority at the port,” and inserting in their stead the words “ a proper authority at the port ”;

(b) by omitting from sub-section (7.) of section fourteen set out in that section the words “ the Deputy Director or the proper authority, as the case may be,” and inserting in their stead the words “ the proper authority ”;

- (c) by omitting from sub-sections (8.) and (9.) of section fourteen set out in that section the words “ a Deputy Director or ”;
- (d) by omitting from paragraph (d) of sub-section (1.) of section fourteen A set out in that section the words “ a Deputy Director or ”; and
- (e) by omitting from sub-section (2.) of section fourteen A set out in that section the words “ Deputy Director or ” (wherever occurring).

(3.) Section one hundred and eighty-two of the *Navigation Act 1958* is amended—

- (a) by omitting from sub-section (3.) of section three hundred and eighty-nine A set out in that section the words “ Deputy Director or a superintendent ” and inserting in their stead the words “ prescribed officer ”;
- (b) by omitting from sub-section (5.) of section three hundred and eighty-nine A set out in that section the words “ Deputy Director or a superintendent ” and inserting in their stead the words “ prescribed officer ”; and
- (c) by omitting from paragraph (a) of sub-section (5.) of section three hundred and eighty-nine A set out in that section the words “ Deputy Director or superintendent, as the case may be, ” and inserting in their stead the words “ prescribed officer ”.

(4.) Section one hundred and ninety-eight of the *Navigation Act 1958* is amended—

- (a) by omitting from sub-section (3.) of section four hundred and seventeen set out in that section the word “ Director ” (wherever occurring) and inserting in its stead the word “ Minister ”; and
- (b) by omitting from sub-section (4.) of section four hundred and seventeen set out in that section the words “ the Director ” and inserting in their stead the words “ a prescribed officer ”.

Saving of regulations.

36. Regulations made, or purporting to have been made, under the *Navigation Act 1912* or under that Act as amended from time to time and in force, or purporting to be in force, immediately before the date of commencement of a section of this Act which amends or repeals a provision of the Principal Act shall, on and after that date, be as valid and effectual as if they had been made on that date.

THE SCHEDULE.

Section 35.

ADDITIONAL AMENDMENTS.

Sections amended.	Amendments.
6	(a) Omit from sub-section (1.) the definition of "Deputy Director". (b) Omit from the definition of "official" in sub-section (1.) "a Deputy Director". (c) Omit from sub-section (1.) the definition of "the Director".
40A	Omit "Director" (wherever occurring), insert "Minister".
43	(a) Omit from paragraph (b) of sub-section (7.) "a Deputy Director, or a proper authority at the port," insert "a proper authority at the port". (b) Omit from sub-section (7.) "the Deputy Director or the proper authority, as the case may be," insert "the proper authority". (c) Omit from sub-section (8.) "Deputy Director or". (d) Omit from sub-section (9.) "a Deputy Director or".
44	(a) Omit from paragraph (d) of sub-section (1.) "a Deputy Director or". (b) Omit from sub-section (2.) "Deputy Director or" (wherever occurring).
116	Omit "Deputy Director" (wherever occurring), insert "Minister".
136	Omit from paragraph (j) of sub-section (1.) "Director", insert "Minister".
137	Omit "Director" (wherever occurring), insert "Minister".
164	Omit from sub-section (1.) "Deputy Director", insert "Minister".
175	Omit from sub-section (1.) "Director", insert "Minister".
191B	Omit "Director", insert "Minister".
192A	Omit from sub-section (1.) "the Director", insert "such officer as is prescribed".
192B	Omit from sub-section (2.) "Director" (wherever occurring), insert "Minister".
335	Omit "Director" (wherever occurring), insert "Minister".
377A	(a) Omit from sub-section (1.) "A Deputy Director, or other person appointed for the purpose by the Minister," insert "A person appointed for the purpose by the Minister". (b) Omit from sub-section (2.) "to appear before the Deputy Director or other person in pursuance of the last preceding sub-section", insert "in pursuance of the last preceding sub-section to appear before a person appointed by the Minister". (c) Omit from paragraphs (c) and (d) of sub-section (2.) "Deputy Director or other person", insert "person so appointed".
414	Omit from sub-section (1.) "a Deputy Director,".
418A	Omit from sub-section (1.) "a Deputy Director", insert "the Minister".
424	(a) Omit paragraph (a) of sub-section (2.), insert the following paragraph:— " (a) an officer employed in the Department of Shipping and Transport;"; (b) Omit from sub-section (3.) " , other than the Director,".